

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 322 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
 2. To be referred to the Reporter or not? -
 3. Whether Their Lordships wish to see the fair copy of the judgement? -
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
 5. Whether it is to be circulated to the Civil Judge?
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MAHMADKHAN RASULKHAN PATHAN

Versus

STATE OF GUJARAT

Appearance:

MRS KETTY A MEHTA for Petitioner
MRS VK PAREKH for respondent no. 1.
M/S MG DOSHIT & CO for Respondent No. 2.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 23/06/98

ORAL JUDGEMENT

The petitioner was working as a Labour Officer at Baroda. He was involved in a criminal case. Hence, by the order dated 3rd January,,1983 he was put under suspension. In the said criminal case he was acquitted by the judgment and order dated 18th February, 1986. On the basis of that order of acquittal the petitioner was

reinstated by the order dated 10-2-1987. He was directed to be posted at Surat by the order dated 21-2-1987. The petitioner was paid difference of salary and subsistence allowance, amounting to Rs. 3,966/- on 26-5-1987 for the period from 27-2-87 to 30-4-87. The State Government passed the Resolution 21-12-87 and by treating the suspension period of the petitioner as on duty from the period from 4-1-1983 to 26-2-1987 the remaining amount of difference of Rs. 11002/20 was also paid to the petitioner on 13-2-1988. The petitioner was also paid bonus on 20th January, 1988.

2. Regarding the prayer made in para 9 (A) and (C) of the petition, this petition has become infructuous. So far as prayer made in para 9 (B) of the petition is concerned, it is relating to promotion and other consequential benefits of pay, increment, L.T.C. etc. The petitioner was not found fit by the Departmental Selection Committee and hence he was not promoted and the petitioner is retired from the service on superannuation in the year 1992.

3. The learned counsel for the petitioner has submitted that under Rule 152 (2) of the Bombay Civil Service Rules, 1959 the petitioner is entitled to Leave Travel Concession and Travelling Allowance and as the petitioner was under suspension these benefits could not be awarded to the petitioner. As the petitioner was exonerated from the charge he is entitled to L.T.C. and Travelling Allowance under Rule 152 (2) of the B.C.S. Rules.

4. The Deputy Secretary to the Government, Labour and Employment Department, has filed an affidavit-in-reply and in para 5 (i) of the affidavit-in-reply it is asserted that according to Govt. Resolution of the Finance Department dated 28-3-86 the Government servant under suspension himself is not entitled to LTC during the period under suspension but he is entitled to LTC for his family. Learned counsel for the State Government has also placed reliance on the Govt. Resolution dated 27th December, 1981 which requires that the Government employee under suspension cannot avail of LTC. But the contention of the learned counsel for the petitioner is that when the petitioner was exonerated of all the charges and he was reinstated, the petitioner is entitled to allowances which include L.T.C. and Travelling Allowance.

5. The petitioner is at liberty to move a representation before the appropriate authority regarding

the claim of L.T.C. and Travelling within a period of three weeks from the date of this order. In case, such claim is made by the petitioner before the appropriate authority, the appropriate authority will decide the same within a period of four weeks from the date of receipt of a certified copy of this order.

6. With these directions this petition is disposed of. Rule is made absolute to the aforesaid extent, with no order as to costs.

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